

**The Travelers Indemnity Company of America  
One Tower Square, Hartford, CT 06183**

**NAIC COMPANY 25666**

**MARKET CONDUCT EXAMINATION REPORT  
as of December 31, 2002**

**COLORADO DEPARTMENT OF REGULATORY AGENCIES  
DIVISION OF INSURANCE**

**PREPARED BY INDEPENDENT CONTRACTORS FOR  
COLORADO DEPARTMENT OF REGULATORY AGENCIES  
DIVISION OF INSURANCE**

Gary L. Domer, CIE  
James H. Daughan, CPCU, CIE  
Independent Market Conduct Examiners  
Working in Coordination with the  
Colorado Division of Insurance  
1560 Broadway, Suite 850  
Denver, Colorado 80202  
(303) 894-7499

**The Travelers Indemnity Company of America  
One Tower Square, Hartford, CT 06183**

**MARKET CONDUCT  
EXAMINATION REPORT  
as of  
December 31, 2002**

**Prepared by**

**Gary L. Domer, CIE**

**James H. Daughan, CPCU, CIE**

**Independent Contract Examiners**

August 22, 2003

The Honorable Douglas Dean  
Commissioner of Insurance  
State of Colorado  
1560 Broadway Suite 850  
Denver, Colorado 80202

Commissioner Dean:

In accordance with Sections 10-1-203, C.R.S. and 10-3-1106, C.R.S., an examination of selected underwriting and claims practices of The Travelers Indemnity Company of America's private passenger automobile business has been conducted. The Company's records were examined at the Home office located at One Tower Sq., Hartford, CT, 06183 and the Regional office located at 7600 E. Orchard Rd., Greenwood Village, CO, 80111. The examination covered a twelve month period from January 1, 2002, to December 31, 2002.

A report of the examination of The Travelers Indemnity Company of America is, herewith, respectfully submitted.

Gary L. Domer, CIE  
James H. Daughan, CPCU, CIE

Independent Market Conduct Examiners

**MARKET CONDUCT  
EXAMINATION REPORT  
OF  
The Travelers Indemnity Company of America**

**TABLE OF CONTENTS**

<b><u>SECTION</u></b>	<b><u>PAGE</u></b>
I. COMPANY PROFILE.....	6
II. PURPOSE AND SCOPE OF EXAMINATION.....	7
III. EXAMINERS' METHODOLOGY .....	9
IV. EXAMINATION REPORT SUMMARY.....	15
V. PERTINENT FACTUAL FINDINGS.....	17
A. PRIVATE PASSENGER AUTO	
1. Underwriting.....	18
2. Rating.....	24
3. Claims.....	26
VI. SUMMARY OF RECOMMENDATIONS.....	30
VII. EXAMINATION REPORT SUBMISSION.....	31

**COMPANY PROFILE**

## The Travelers Indemnity Company of America

The Travelers Indemnity Company of America was incorporated on January 2, 1946, and commenced business on May 1, 1946. The Company is wholly owned by The Phoenix Insurance Company which is a wholly-owned subsidiary of Travelers Property Casualty Corp. It was admitted in Colorado to write Property/Casualty business on September 30, 1968.

Travelers Property Casualty Corp. was formed in January, 1996, to hold the property and casualty insurance subsidiaries of The Travelers Insurance Group Inc., an indirect, wholly-owned subsidiary of Citigroup. On April 2, 1996, the company purchased the property and casualty business of The Aetna Casualty and Surety Company and its property-casualty affiliates. On August 20, 2002, the spin –off with Citigroup was completed, re-establishing Travelers as a fully independent, publicly-traded company.

The Company's home office is in Hartford, CT and Colorado business is serviced through the Regional Home Office, 7600 East Orchard Rd., Denver, CO, 80111 and a Field Office at 8501 Turnpike Drive, Westminster, CO, 80031. The Company has a nationwide staff of 2,108 active agents.

In 2002 the Company had 6,355 private passenger automobile policies in force in Colorado.\* The Company reported \$9,788,291 in private passenger automobile written premium in Colorado during 2002, representing a .34% market share of all private passenger automobile insurance written in Colorado during 2002.\*\*

\*Data as reported by the Company

\*\*Data as reported in the Colorado Insurance Industry Statistical report

### **PURPOSE AND SCOPE OF EXAMINATION**

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado insurance law, Section 10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to automobile insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

The examination was governed by, and was performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered twelve months of the Company's operations, from January 1, 2002, to December 31, 2002.

File sampling was based on a review of underwriting and claim files systematically selected from file runs provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any findings were noted on a comment form and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form the Company had the opportunity to respond and was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of the examination the Company was provided a summary of the findings.

The examination report is a report by exception and much of the material reviewed is not addressed in the written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

The report addresses only Private Passenger Automobile issues and contains information regarding exceptions to the Colorado Insurance Code. The examination included review of the following six (6) Company operations:

1. Company Operations and Management
2. Complaint Handling
3. Agents
4. Underwriting
5. Rating
6. Claims

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.



**EXAMINERS' METHODOLOGY**

The examiners reviewed the Company's Private Passenger Automobile underwriting and claims practices to determine compliance with the Colorado insurance law.

**Exhibit 1**

<b>Law</b>	<b>Subject</b>
Section 10-1-205	Financial Examination Reports
Section 10-4-401	Purpose-applicability
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-706.	Required coverages - complying policies - PIP examination program.
Section 10-4-706.5.	Operator's policy of insurance.
Section 10-4-707.5.	Ridesharing arrangements - benefits payable - required coverage.
Section 10-4-708.	Prompt payment of direct benefits.
Section 10-4-709.	Coordination of benefits.
Section 10-4-710.	Required coverages are minimum.
Section 10-4-711.	Required provision for intrastate and interstate operation.
Section 10-4-713.	No tort recovery for direct benefits.
Section 10-4-714.	Limitation on tort actions.
Section 10-4-715.	No limitation on tort action against non-complying tort-feasors.
Section 10-4-717.	Intercompany arbitration.
Section 10-4-718.	Quarterly premium payments.
Section 10-4-719.	Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 7.
Section 10-4-719.5.	Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements.
Section 10-4-719.7.	Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited.

Section 10-4-720.	Cancellation - renewal - reclassification.
Section 10-4-721.	Exclusion of named driver.
Section 10-4-724.	Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course - legislative declaration.
Section 10-4-725.	Certification of policy and notice forms.
Section 10-3-1103.	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices.
Section 10-3-1107	Hearings
Section 10-3-1108	Orders
Section 10-3-1109	Penalty for violation of cease and desist orders
Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Insurance Score
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Auto Accident Reparations Act (No Fault) Rules and Regulations
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.
Regulation 6-2-2.	Responses to Division Inquiries Regarding Complaints.

### **Company Operations/Management**

The examiners reviewed Company management, implementation, and quality controls, record retention, installment payment plans, anti-fraud plan, forms certification, and timely cooperation with the examination process.

### **Complaints**

The examiners reviewed and compared the complaint log maintained by the Division of Insurance against the Company's complaint log to verify the accuracy of the Company's tracking system. The examiners also evaluated the Company's complaint handling methodology and reviewed the reason for and disposition of complaints.

### **Producers**

The examiners reviewed new business applications written in the State of Colorado for the period under examination and compared those documents against the list of producers provided by the Company.

**Contract Forms and Endorsements**

The following Private Passenger Automobile forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance.

<b>Title</b>	<b>Form</b>	<b>Edition</b>
Automobile Policy Booklet	PL-6000	3/87
Declarations(machinable) Continuations/Reinstatement	PL-7782	11/94
Declarations (machinable) Changes	PL-7783	11/94
Declarations (nonmachinable)	PL-6001	3/87
Additional Insured	PL-6010	4/95
Amendment Endorsement	PL-6026	3/87
Amendment Endorsement - Temporary	PL-6027	3/87
Antique or Classic Car (Stated Amount Insurance)	PL-6009	3/87
Antique Auto – Limited Use	PL-6019	3/87
Auto Death Indemnity Coverage	PL-6028	3/87
Auto Loan/Lease Coverage	PL-8198	3/95
Covered Property Coverage	PL-6008	3/87
Coverage Enhancement Endorsement	PL-6771	8/96
Coverage for Sound Receiving & Transmitting Equipment	PL-6006	3/90
Coverage for Tapes, Records, Other Devices	PL-6033	3/87
Exclusion of Occupants of Certain Vehicles	PL-6031	3/87
Extended Non-Owned Coverage for Named Individual	PL-6007	3/87
Federal Employees Using Autos in Government Business	PL-6002	3/87
General Changes Endorsement-No Premium Involved	PL-6004	3/87
General Changes Endorsement-Premium Involved	PL-6003	3/87
Limited Coverage for Operators Under 25	PL-6029	3/87
Limits of Liability	PL-6024	3/87
Miscellaneous Type Vehicle Endorsement	PL-6013	3/87
Motor Home Rental Coverage	PL-6034	3/87
Named Non-Owner Coverage	PL-6022	3/87
Notice to Third Party	PL-6018	3/87
Operation By Named Person Eliminated	PL-6032	3/87

Premium Financing Endorsement	PL-6017	3/87
Racing Exclusion	PL-6014	3/87
Repair or Replacement Collision Coverage	PL-6023	3/87
Snowmobile Endorsement	PL-6012	3/87
Special Increased Limits Endorsement	PL-6020	3/87
Symbols Numbers of Endorsement	PL-6021	3/87
Use on Ice Amendment	PL-6016	3/87
Use of Water Amendment	PL-6015	3/87
Amendment of Policy Provisions - Colorado	PL-6205	12/01
Mass Merchandising Amendment Endorsement – Colorado(TIA)	PL-9781	3/99
Personal Injury Protections Coverage - Colorado	PL-6206	12/01
Property Damage Uninsured Motorist Coverage- Colorado	PL-6551	9/99
Summary Disclosure Form	PL-7513	2/96
Notice of Termination	SC-16102	9/91
Notice of Nonrenewal – Colorado	PL-2908	7/97
Cancellation/Termination/Nonrenewal – TIA	C-18178	5/82
Notice of Cancellation ( Non-Payment of Premium)	SC20451	8/87
Notice of Cancellation ( Non-Payment of Premium)	PL-1074	11/90
Preferred Provider Organization Option (PPO)	PL-7639	12/00
Preferred Provider Organization Option (PPO)	QCC052	12/00
Notice of Premium Increase/Reduction in Coverage (Colorado)	PL-1874	2/00
Important Notice (A.I.P.)	C-13442	8/69
Important Notice (A.I.P.)	PL-8403	12/95
Colorado Uninsured Motorists Coverage Election of Reduced Limits or Rejections of Coverage Form	PL1929	3/99
Colorado Uninsured Motorists Coverage Election of Reduced Limits or Rejections of Coverage Form	QCC054	3/99
Notice of Cancellation - Colorado	PL-1875	7/97
Important Notice	PL-9042	4/97
A Notice of Change of Coverage	PL-3347	6/01
Notice of Declination of Application for Automobile Ins. -CO	PL-10230	3/00

Notice of Nonrenewal – Automobile Policy	PL-9458	5/98
Notice of Premium Increase – Automobile Policy	PL-9459	5/98
Notice of Reduction in Coverage – Automobile Policy	PL-9460	5/98
Notice of Cancellation – Automobile Policy	PL-9461	5/98
Post Notification	PL9462	5/98
Operation by Named Person Eliminated	PL-9463	5/98
Notice of Nonrenewal - Colorado	PL-10144	2/00

### **New Business /Cancellations/Nonrenewals/Surcharges/Rejections/Renewals**

For the period under examination the examiners systematically selected the following underwriting samples to determine compliance with underwriting practices:

<b>Review Lists</b>	<b>Population</b>	<b>Sample Size</b>	<b>Percentage to Population</b>
New Business Issued	913	50	5.5%
Agents/Agencies	4144	50	1.2%
Nonrenewals	22	22	100%
Cancellation for Cause	9	9	100%
Cancellation for Non Payment	698	50	7.16%
Surcharges	274	50	18.2%
Cancellation in the 1 <sup>st</sup> 59 days	6	6	100%
Rejections	3	3	100%
Renewals	5140	100	1.94

### **Rating**

The examiners reviewed the rate, rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was then compared against a sample of new business and renewal policies, rated by coverage, to determine compliance with base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations.

**Claims**

For the period under examination the examiners systematically selected the following samples to determine compliance of claims handling practices and claims manual rules:

<b>Review Lists</b>	<b>Population</b>	<b>Sample Size</b>	<b>Percentage to Population</b>
First Party Comprehensive & Collision	1432	50	3.48%
Third Party Bodily Injury & Property Damage	521	50	9.6%
PIP Claims Paid	357	50	14%
PIP Drafts Paid	5565	100	1.79%
Subrogation	383	50	13.1%
Total Loss	185	50	27%
Denied or Closed Without Payment	458	50	10.9%
Uninsured Motorists BI/PD	24	24	100%

**EXAMINATION REPORT SUMMARY**

The examination resulted in four (4) issues arising from the Company's apparent failure to comply with Colorado statutes and regulations that govern all property and casualty insurers operating in Colorado. These issues involved three (3) of the six (6) categories of Company operations examined as follows:

**Company Operations and Management:** In the area of company operations and management no compliance issues are addressed in this report.

**Complaint Handling:** In the area of complaint handling no compliance issues are addressed in this report.

**Agents:** In the area of agency operations no compliance issues are addressed in this report.

**Underwriting:** In the area of underwriting two (2) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements that must be complied with whenever policies are canceled, non-renewed or premiums increased or decreased. It is recommended that the Company review its underwriting practices and procedures and make the changes necessary to ensure future compliance with applicable statutes and regulations as to each issue. The issues in this area are:

- Improper non-renewal of Mass Marketed policies in violation of Colorado insurance law.
- Certification and use of non-complying forms in violation of Colorado insurance law.

**Rating:** In the area of rating one (1) compliance issue is addressed in this report. This issue arose from Colorado statutory and regulatory requirements that must be complied with whenever policies are issued, surcharged or premiums increased or decreased. It is recommended that the Company review its rating manuals, practices and procedures and make the changes necessary to ensure future compliance with applicable statutes and regulations as to each issue. The issue in this area is:

- Failure to follow rating rules filed with the Division of Insurance in violation of Colorado insurance law.

**Claims:** In the area of claims one (1) compliance issue is addressed in this report. This issue arose from Colorado statutory and regulatory requirements dealing with the payment of claim benefits and the timeliness of claim payments. It is recommended that the Company review its claim handling procedures and make the necessary changes to ensure future violation of applicable statutes and regulations. The issue in this area is:

- Failure to timely pay PIP benefits in violation of Colorado insurance law

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance) or by contacting the Colorado Division of Insurance.



**THE TRAVELERS INDEMNITY COMPANY OF AMERICA**

**PERTINENT FACTUAL FINDINGS**

**PRIVATE PASSENGER AUTO**

**PERTINENT FACTUAL FINDINGS**

**UNDERWRITING**

**Issue A: Improper non-renewal of Mass Marketed policies in violation of Colorado insurance law.**

Colorado Insurance Regulation 5-1-1, Mass Merchandising of Property and Casualty Insurance, promulgated pursuant to the authority of Section 10-1-109, C.R.S. provides, in part:...

Section 7. Cancellation and Non-Renewal

A. Insurance coverage provided an eligible member insured under a mass merchandising plan may be canceled or nonrenewed pursuant to the terms of the insurance contract but only:

1. For motor vehicle insurance: Under the terms and conditions of Part 6 of Section 4 of Title 10, Colorado Revised Statutes, for the reasons set forth in § 10-4-602 (1)(a), (b) and (c), C.R.S.;
2. For non-payment of premiums; or
3. Upon conviction of the eligible member insured of a crime involving acts which materially increase the risk or hazard insured against; or
4. Upon discovery of willful or reckless acts by the eligible member insured which materially increase the risk or hazard insured against; or
5. For misrepresentation by the eligible member insured of any material fact in the obtaining or renewal of insurance coverage, or in the submission of claims; or
6. For reasons permitted under § 10-4-720, C.R.S.

B. All mass marketing plans shall provide the eligible member insured under such plan with an opportunity to purchase individual equivalent coverage from the same insurer or one of its affiliates upon termination of employment or membership or upon the discontinuance of the mass marketing plan. The failure of the eligible group to remit premiums when due shall not be regarded as non-payment of premium by an eligible member insured under any mass merchandising plan, unless such insured shall have been given written notice of such failure to remit and has not paid such premium by the later of: (a) thirty (30) days after such notice; or (b) the due date of such premium remittance under the mass merchandising plan.

The company's Termination Manual-Auto Guides-Colorado; Unique Mass Marketed Guidelines; Policy Requirements, states, in part:

...if the mass merchandising plan is terminated, s/he shall be entitled to continue his/her coverage at the existing premium rate for 30 days after termination. After this period, *we shall provide the eligible member insured an individual policy affording the same or similar coverage* provided that an application and premium payment are received within the 30-day period and the individual qualifies for coverage under any program currently on file with the Insurance Division.

Policies non-renewed			
Population	Sample Size	Number of Exceptions	Percentage to Sample
22	22	3	14%

An examination of 22 systematically selected non-renewed policies, representing 100% of all policies non-renewed by the Company during the examination period, showed three (3) exceptions (14% of the sample) wherein the Company failed to follow Company guidelines.

Three (3) policies were non-renewed because “the program through which your automobile policy was written is no longer available,” which may be a violation of Company guidelines and Colorado Insurance law.

The Company failed to continue the existing coverage for 30 days after termination.

The Company failed to provide an opportunity to purchase individual equivalent coverage from the same insurer or affiliate insurer.

Failure to follow company guidelines, failure to provide the opportunity to purchase equivalent coverage and failure to continue existing coverage for 30 days after termination may be a violation of Colorado Insurance law.

---

**Recommendation # 1:**

Within 30 days the Company should demonstrate why it should not be considered to be in violation of Colorado Insurance Regulation 5-1-1. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has corrected its practices and procedures and implemented a plan to ensure Company guideline and Colorado insurance laws are followed when terminating policies issues through a Mass Marketing program.

**Issue B: Certification and use of non-complying forms in violation of Colorado insurance law.**

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, provides, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

...(u) Certifying pursuant to section [10-4-725](#) or issuing, soliciting, or using an automobile policy form, endorsement, or notice form that does not comply with statutory mandates. Such solicitation or certification shall be subject to the sanctions described in sections [10-3-1107](#), [10-3-1108](#), and [10-3-1109](#).

Section 10-4-725, C.R.S., Certification of policy and notice forms, provides:

(1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted by July 15, 1993, and not later than July 1 of each subsequent year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner.

Section 10-4-720, C.R.S., Cancellation-renewal-classification, states, in part: ...

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before thirty days prior to the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at his last known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form which has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules or regulations promulgated by the commissioner:

Colorado Insurance Regulation 5-2-3, Auto Accident Reparations Act (No Fault) Rules and Regulations, promulgated by the Commissioner of Insurance under the authority of Sections 10-1-109, 10-4-704, 10-4-704, and 42-1-204, C.R.S., amended effective February 1, 1998, December 1, 2000, and May 1, 2001, states, in part: ...

E. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

2. Notice of proposed actions.

a. A proposal to cancel, nonrenew, increase the premium or reduce coverage under a private passenger motor vehicle insurance policy shall state the actual reason for proposing such action in the notice required by §10-4-720 (2), C.R.S. Only one notice is required to be sent to the insured whose incident resulted in the proposed action. The statement of reasons shall be clear and specific so that a reasonable person can understand it. The insurer shall clearly describe its underwriting rule, policy or guideline which is the basis for the proposed action. A simple recitation of dates and incidents, without further detail, is not acceptable and may cause the insurer's proposed action to be disallowed.

b. Insurers proposing to cancel, nonrenew, increase premium or reduce cover age shall prominently display on the notice form, within or adjoining the paragraph entitled "Your Right to Protest," the following premium payment instructions:

*In order to continue your coverage during the period the proposed action is protested, you must continue to make payments according to your current premium payment plan until a decision is made by the hearing officer. You may contact your producer (agent) or the company at (phone number) for further information. Please note that the company may bill you later for any premium difference occurring if the company's action is upheld. This is the only notification you will receive to pay the premium due to continue coverage. If the premium is not paid prior to the effective date of the action listed on the notice, the coverage will lapse.*

The company certified 11 forms for use in 2002 to non-renew or cancel policies of insurance that did not contain the language required by Colorado Insurance law (italicized above).

---

**Recommendation # 2:**

Within 30 days the Company should demonstrate why it should not be considered to be in violation of Sections 10-4-725, 10-4-720, 10-3-1104, C.R.S. and Colorado Insurance Regulation 5-2-3. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has corrected its practices and procedures and implemented a plan to ensure that all forms certified to the Division of Insurance and all forms used in Colorado are in compliance with Colorado statutes and regulations. Furthermore, the company should correct the errant forms and, within 30 days, certify them to the Division of Insurance.

**PERTINENT FACTUAL FINDINGS**

**RATING**



**Issue C: Failure to provide policyholders proper notice of an increase in premium in violation of Colorado insurance law.**

Section 10-4-720, C.R.S., Cancellation-renewal-reclassification, states, in part:

(1) Except in accordance with the provisions of this part 7, no insurer shall cancel or fail to renew a policy of insurance which complies with this part 7, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage approved by the commissioner or to satisfy the requirements of other sections of this part 7.

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before thirty days prior to the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at his last known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form which has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules or regulations promulgated by the commissioner:

(a) The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction; . . .

**Private Passenger Autos Surcharged**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
274	50	10	20%

An examination of 50 files representing 18% of all policies surcharged by the Company in Colorado during 2002 showed 10 exceptions (20% of the sample) in which the Company failed to give notification of an increase in premium. Failure to give proper notice of an increase in premium is a violation of Colorado Insurance law.

---

**Recommendation # 3:**

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-720, C.R.S. In the event the Company is unable to provide such documentation, it should be required to produce evidence and documentation demonstrating that the Company has amended its procedures regarding premium increase notices so that, whenever a policy is surcharged, the notice contains sufficient information to comply with the requirements of Colorado law.

**PERTINENT FACTUAL FINDINGS**

**CLAIMS PRACTICES**

**Issue D: Failure to timely pay PIP benefits in violation of Colorado insurance law.**

Section 10-3-1104, (1)(h), C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, defines, in part, as an unfair business practice: ...

(II) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies: or

(III) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

Section 10-4-708 (1), C.R.S., Prompt payment of direct benefits, provides, in part: ...

Payment of benefits under the coverages enumerated in section 10-4-706 (1)(b) to (1) (e) or alternatively, as applicable, section 10-4-706 (2) or (3) shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after insurer receives reasonable proof of the fact and amount of expenses incurred during that period; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. In the event that the insurer fails to pay such benefits when due, the person entitled to such benefits may bring an action in contract to recover the same.

Colorado Insurance Regulation 5-2-8, Timely payment of Personal Injury Protection benefits, promulgated by the Commissioner of Insurance under the authority of Sections 10-1-109, 10-4-704, 10-4-708(1.3) and 10-3-1110(1), C.R.S., effective November 1, 1997, amended September 1, 2000, provides, in part: ...

**B. Prompt Payment of PIP Benefits**

Section 10-4-708(1), C.R.S., provides that benefits under the coverages enumerated in Section 10-4-706, C.R.S., are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

Section 10-4-708(1), C.R.S., allows for the accumulation of claims expense for periods not exceeding one month and provides that benefits are not overdue if paid within 15 days after the end of a defined period of accumulation. An insurer is permitted by this statute to pay a bill within 15 days after the end of a defined accumulation period only when there is a reasonable likelihood that multiple providers are involved and more than one bill is received during the accumulation period.

C. Requirements Establishing Proof of the Fact and Amount of Expenses Incurred

1. Medical and Rehabilitative PIP benefits

In the usual case, for purposes of triggering the 30-day time period described in Section 10-4-708(1), C.R.S., the following documents are sufficient to establish reasonable proof of the fact and amount of the expenses incurred for covered medical and rehabilitative PIP benefits:

- a. A properly executed application for benefits from the PIP claimant; and
- b. An initial notice to the insurer from the provider of benefits which meets the requirements of Section 10-4-708.5, C.R.S. or a billing statement for the procedure or treatment which complies with Section 10-4-708.6, C.R.S., and includes pursuant to Section 10-4-708.5 the following:
  - (1) The name and address of the treating health care provider;
  - (2) The evaluation of diagnosis, and the medical procedure performed or the medical treatment provided; and
  - (3) An itemized statement of charges corresponding to the medical service or treatment provided along with corresponding dates of service.

**PIP Checks/Drafts Paid**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
5565	100	12	12%

An examination of 100 systematically selected drafts/checks, representing 2% of all PIP drafts/checks issued by the Company during the examination period, showed twelve (12) exceptions (12% of the sample) wherein the Company failed to pay PIP benefits within the statutory standard of 30 days.

**PIP Paid Claims**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
357	50	9	18%

An examination of 50 systematically selected PIP claim files, representing 14% of all PIP claims paid by the Company during the examination period, showed nine (9) exceptions (18% of the sample) wherein the Company failed to pay PIP benefits within the statutory standard of 30 days.

Failure to pay PIP benefits within the statutory standard of 30 days may be a violation of Colorado insurance law.

---

**Recommendation # 4:**

Within 30 days the Company should provide documentation demonstrating why it should not be considered to be in violation of Sections 10-3-1104, and 10-4-708, C.R.S. and Colorado Insurance Regulation 5-2-8. If the Company is unable to provide such documentation, the Company should be required to provide evidence to the Division of Insurance demonstrating that it has reviewed all procedures related to the timeliness of claims handling and the documentation of claim files and has implemented all necessary changes to ensure compliance in each area.

**Market Conduct Examination****Summary of Issues/Recommendations Locator    The Travelers Indemnity Company of America**

<b>ISSUE</b>	<b>Rec. No.</b>	<b>Page No.</b>
<b>UNDERWRITING</b>		
Issue A: Improper non-renewal of Mass Marketed policies in violation of Colorado insurance law.	1	20
Issue B: Certification and use of non-complying forms in violation of Colorado insurance law.	2	23
<b>RATING</b>		
Issue C: Failure to provide policyholders proper notice of an increase in premium in violation of Colorado insurance law.	3	25
<b>CLAIMS</b>		
Issue D: Failure to timely pay PIP benefits in violation of Colorado insurance law.	4	29

Independent Market Conduct Examiners

Gary L. Domer, CIE

James H. Daughan, CPCU, CIE

Participated in this examination and in the preparation of this report